

STATE OF NEW JERSEY
BUREAU OF SECURITIES
153 HALSEY STREET
P.O. BOX 47029
NEWARK, NEW JERSEY 07101
(973) 504-3600

IN THE MATTER OF:

KENNETH D. FRANKLIN
(CRD NO. 1852819)

MATTHEW A. HAYDEN
(CRD NO. 2559471)

MICHAEL J. KELLY
(CRD NO. 1952241)

)
)
)
)
)
)
)
)
)
)
)

CONSENT ORDER

TO: Kenneth D. Franklin
627 Brookside Drive
Toms River, New Jersey 08753

Matthew A. Hayden
63 Morning Watch Road
Wayne, New Jersey 07470

Michael J. Kelly
615 Wildwood Avenue
Ocean Gate, New Jersey 08740

Pursuant to the authority granted to the Chief of the New Jersey Bureau of Securities ("Bureau") by the Uniform Securities Law (1997), N.J.S.A. 49:3-47, et seq. (The "Securities Law"), more specifically N.J.S.A. 49:3-52(b) and N.J.S.A. 49:3-70.1, and based upon the following findings that the Bureau Chief has made, the Bureau Chief has determined that there is good cause for civil monetary penalties to be assessed against Kenneth D. Franklin ("Franklin"), Matthew A. Hayden ("Hayden"), and Michael J. Kelly ("Kelly").

WHEREAS, this contested case was transmitted to the Office of Administrative Law and assigned to Administrative Law Judge Jesse H. Strauss with OAL Docket No. BOS 01860-2004N; and

WHEREAS, the Bureau, Franklin, Hayden, and Kelly expressed their desire to resolve this matter without the additional delay and expense further proceedings would incur; and

WHEREAS, the Bureau, Franklin, Hayden, and Kelly acknowledge that this Consent Order is fully dispositive of all issues in controversy; and

WHEREAS, the Bureau, Franklin, Hayden, and Kelly acknowledge that this Consent Order discloses the full terms of the settlement; and

WHEREAS, Franklin, Hayden, and Kelly acknowledge that they have had the opportunity to seek legal advice before giving their consent to this order and they also acknowledge that by signing this Consent Order that they give their consent to the same freely, knowingly and voluntarily and with full knowledge and understanding of the obligations and duties imposed by this Consent Order; and

WHEREAS, by signing this Consent Order, Franklin, Hayden, and Kelly acknowledge that they understand that they have an opportunity to be heard at a hearing concerning the subject

matter of this Consent Order but, nevertheless, expressly waive such right along with the right to take an appeal of this order; and

WHEREAS, the Bureau, Franklin, Hayden, and Kelly acknowledge that New Jersey law shall govern the terms of this Consent Order; and

WHEREAS, Franklin, Hayden, and Kelly agree that this Consent Order constitutes the entire agreement with respect to its subject matter and that any addition, deletion or change to this Consent Order must be in writing and signed by all the parties hereto.

The Bureau Chief makes the following findings of fact and conclusions of law:

PARTIES

1. Franklin, CRD #1852819, resides at 627 Brookside Drive, Toms River, New Jersey 08753. Franklin was employed as a registered representative in the Toms River branch of Somerset Financial Group, Inc. ("Somerset broker-dealer") located at 147 Route 70, Suite 220, Toms River, New Jersey, 08755 ("Toms River branch") from March 31, 2000 until June 17, 2002. Franklin was registered with the Bureau as an agent of the Somerset broker-dealer from March 31, 2000 until June 14, 2002, including all relevant times herein.

2. Franklin has been working in the securities industry as a registered representative since 1988. Franklin's experience in the securities industry was in mutual funds, annuities, insurance policies, and occasionally stock transactions. He had no private placement sales experience.

3. Hayden, CRD #2559471, resides at 63 Morning Watch Road, Wayne, New Jersey 07470. Hayden was employed as a registered representative in the Princeton branch of the Somerset broker-dealer located at 349 Wall Street, Princeton, New Jersey 08540 ("Princeton branch") from November 13, 2000 until June 13, 2002. Hayden was registered with the Bureau as an agent of the Somerset broker-dealer during that time period.

4. Hayden has been working in the securities industry since 1994. His experience in the securities industry included sales of bonds and fixed income securities, mutual funds and variable annuities. He had no experience with the sale of private placement investments.

5. Kelly, CRD #1952241, resides at 615 Wildwood Avenue, Ocean Gate, New Jersey 08740. Kelly was employed as a registered representative in both the Toms River branch and the Princeton branch of the Somerset broker-dealer from September 19, 2000 until June 13, 2002. Kelly was registered with the Bureau as an agent of the Somerset broker-dealer during that time period.

6. Kelly has been working in the securities industry since 1989. His experience in the securities industry included sales of annuities, mutual funds, and equities. Kelly had no experience in the sales of private placement investments.

7. Franklin, Hayden and Kelly all began working for vFinance Investments, Inc. ("vFinance") in June 2002 after a mass transfer from the Somerset broker-dealer when operations ceased. See paragraph 20, infra. Franklin, Hayden and Kelly were registered with the Bureau as agents of vFinance from June 2002 until July 2002. In July 2002, Franklin, Hayden and Kelly opened a branch of Capital Securities Management, Inc., ("CSM") in Lakewood, New Jersey. Franklin, Hayden and Kelly worked together at CSM until June 2003. Franklin, Hayden and Kelly were registered with the Bureau as agents of CSM from July 2002 until the end of June 2003. Franklin, Hayden and Kelly three of them were also employed by National Securities Corporation ("NSC").

ASSOCIATED PARTIES

8. Somerset Financial Partners, Inc. was a Connecticut corporation. It formerly maintained offices at 349 Wall Street, Princeton, New Jersey 08540.

9. Somerset Financial Group, Inc., the Somerset broker-dealer, is a Delaware corporation which was a wholly owned subsidiary of Somerset Financial Partners, Inc. ("Parent"). The Somerset broker-dealer formerly maintained offices at 349 Wall

Street, Princeton, New Jersey 08540 and at 10 Wright Street, Westport, Connecticut 06880. During the course of its active business, the Somerset broker-dealer had additional offices in Manahawkin, Toms River and Saddle Brook, New Jersey; Garden City, New York; and Plymouth, Minnesota. The Somerset broker-dealer was registered with the Bureau during all relevant times herein.

10. Somerset Venture Partners, LLC ("LLC") is a Delaware limited liability company and a wholly owned subsidiary of the Parent, with offices at 349 Wall Street, Princeton, New Jersey 08540.

11. Somerset Venture Partners, I LLC ("Fund"), a Venture Fund, is a Delaware limited liability company and a wholly owned subsidiary of the Parent, with offices at 349 Wall Street, Princeton, New Jersey 08540.

12. William Schloth ("Schloth"), who resides at 80 Mountain Laurel Road, Fairfield, Connecticut 06430, was a shareholder and officer of the Parent. ("principal").

13. Nicholas Thompson ("Thompson"), who resides at 23 Bloomingdale Drive, Hillsborough, New Jersey 08844, was a shareholder and officer of the Parent at all relevant times herein ("principal"). Thompson was also the manager of the LLC, which in turn managed the Fund.

14. Douglas Toth ("Toth"), who resides at 12 Innisbrook Road, Skillman, New Jersey 08558, was a shareholder and officer of the Parent at all relevant times herein. ("principal").

PRIVATE PLACEMENT

15. Beginning on or about April 26, 2001, and continuing through August 2001, the Somerset broker-dealer, through its principals and registered representatives, sold a private placement investment to investors to expand Somerset Financial Group's business. The investment was in units of \$50,000. The \$50,000 investment represented a \$49,950 note and a \$50 warrant, which warrant gave the investor the right to invest in a future private placement offering at a discount of 20% from the offering price. The note called for a 12% annual rate of return, and matured on the earlier of either six months, or receipt of a minimum of \$5,000,000 in proceeds from the sale of interests in the Fund. (the "Bridge Note").

16. The Bridge Notes and warrants were not registered with the Bureau. Rather, the Fund filed a Regulation D, Rule 506 exempt offering with the U.S. Securities and Exchange Commission ("SEC").¹ A notice filing of the Rule 506 offering, as required by N.J.S.A. 49:3-60.1(b), was filed on May 8, 2001 with the Bureau.

¹Rule 506 of Regulation D exempts offers and sales of securities from the registration requirements of section 4(2) of the Securities Act of 1933 where the offer or sale involves no more than 35 non-accredited investors, among other requirements. Rule 506(b)(2)(ii) requires that "[e]ach purchaser who is not an

17. During a sales meeting in April 2001, the principals of the Somerset broker-dealer, Toth and Schloth, presented the Bridge Notes and warrants to the Somerset broker-dealer agents with the idea that the agents, including Franklin, Hayden and Kelly, sell the Bridge Notes and warrants to their current clients. Franklin, Hayden and Kelly told the Bureau that Toth, Schloth and Thompson, the principals of the Parent, told the agents that the Bridge Notes would be held in escrow until the Bridge Notes matured and that there was no risk to the principal investment. The risks associated with the investment were not, however, disclosed to the agents. As a result, Franklin, Hayden and Kelly, who represent that they were not aware that the Fund had a legal obligation to a merchant bank to repay a large debt before it was legally permitted to make any repayment on the Bridge Notes to the investors, did not disclose that risk to the investors.

18. The Somerset broker-dealer sold the investment to eighteen (18) investors for a total of \$1,317,000.00 in proceeds.

accredited investor either alone or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or the issuer reasonably believes immediately prior to making any sale that such purchaser comes within this description." 17 C.F.R. 230.506.

The proceeds were transferred to the LLC, which in turn transferred the funds to the parent. The parent then sent the proceeds to the Somerset broker-dealer, which spent some of the proceeds on developing the Somerset broker-dealer's retail business.

19. By the end of the six-month term of the Bridge Note, the Bridge Note was in default. The LLC failed to pay any interest owed to the investors, or to return the investors' principal investment.

20. The Somerset broker-dealer failed as a business. It eventually ceased operation and filed a broker-dealer withdrawal Form BDW with the Bureau, in October 2002.

21. Following an investigation by the Bureau, a complaint was filed in Essex County Superior Court on July 3, 2003 against the Parent, the Somerset broker-dealer, the Somerset investment management company, the LLC, the Fund, Toth, Schloth and Thompson, alleging one count of fraud in the offer and/or sale of a security, involving the Bridge Note and warrant and an amendment to the Bridge Note and warrant.

SALE BY FRANKLIN, HAYDEN AND KELLY OF AN UNSUITABLE SECURITY

22. In recommending to their clients the purchase of the Bridge Note and warrant investment, Franklin, Hayden and Kelly did not have reasonable grounds to believe that the investment was suitable based on their clients' financial status, investment objectives, investment experience and other facts and circumstances relating to their clients' financial situation. Franklin sold the Bridge Note and warrant investment to six (6) investors for a total amount of \$550,000.00. Included in this amount was the \$100,000.00

from one (1) investor sold jointly by Franklin and Kelly. Hayden sold that investment to three (3) investors for a total amount of \$117,000.00. Kelly sold the investment to two (2) investors for a total amount of \$200,000.00. Included in this amount was \$100,000.00 from one (1) investor sold jointly by Kelly and Franklin.

23. Franklin received approximately \$9,000.00 in commissions relating to the sale of the Bridge Notes and warrants. Hayden received approximately \$3,500.00 in commissions for the sale of that investment to his clients. Kelly received approximately \$4,500.00 in commissions.

24. Franklin, Hayden and Kelly now acknowledge that their clients did not have knowledge and/or experience in financial and business matters. Franklin, Hayden and Kelly also acknowledge that their clients were not capable of evaluating the merits and/or risks of the Bridge Note and warrant based on the information that Franklin, Hayden, Kelly and the principals of the Somerset broker-dealer provided them. Furthermore, their clients were not provided a prospectus or other written offering statement, other than the Bridge Note and warrant agreement. In some instances, the agreement was sent after a client's initial investment.

25. Based on the foregoing, the Bridge Note and warrant investment was not a suitable investment for their clients.

26. In connection with the solicitation, offer and sale of the Bridge Notes and warrants to their clients, Franklin, Hayden and Kelly did not disclose the risks associated with that investment.

27. Franklin, Hayden and Kelly neither admit nor deny the Bureau Chief's findings of fact.

Based upon the above findings of fact, the Bureau Chief makes the following conclusions of law:

28. The bridge notes and warrants were securities as defined in N.J.S.A. 49:3-49(m).

29. By failing to disclose risks, Franklin, Hayden and Kelly violated N.J.S.A. 49:3-52(b).

30. By recommending this product to their clients as suitable, Franklin, Hayden and Kelly violated N.J.S.A. 49:3-52(b).

31. The Bureau Chief's finding that respondents violated N.J.S.A. 49:3-52(b) is based on the information the Bureau Chief had as of the date of this Consent Order and does not include a finding that Franklin, Hayden or Kelly acted with scienter.

32. Each and every violation of N.J.S.A. 49:3-52(b) is a ground, pursuant to N.J.S.A. 49:3-70.1, for assessment of civil monetary penalties against Franklin, Hayden and Kelly.

33. Franklin, Hayden and Kelly neither agree nor disagree with the Bureau Chief's conclusions of law.

34. The Bureau Chief having considered the foregoing along with all the prior proceedings herein and for good cause shown;

THEREFORE,

IT IS on this 16th day of June, 2006,

ORDERED, that Franklin, Hayden, and Kelly shall cooperate fully with further investigation and prosecution with respect to the Somerset entities including, but not limited to, Somerset Financial Group, Inc., Somerset Investment Management, LLC, Somerset Venture Partners, LLC and Somerset Venture Partners I, LLC ("Somerset"), activities and events involving Somerset, and individuals at and associated with Somerset including, but not limited to, William Schloth, Nicholas Thompson, Douglas Toth and other principals of Somerset with such cooperation to include making themselves available to the Bureau to prepare for and provide testimony at proceedings, hearings and trials concerning the foregoing and to testify truthfully on those occasions; and it is further

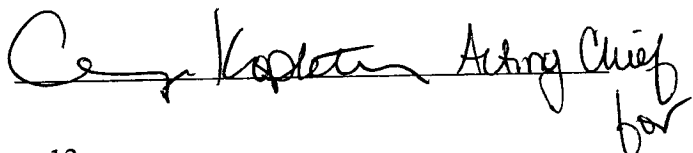
ORDERED, that Franklin is hereby assessed a civil monetary penalty in the amount of Nineteen Thousand Five Hundred Dollars (\$19,500.00), that Franklin shall pay to the Bureau Four Thousand Five Hundred Dollars (\$4,500.00) of the above referenced civil monetary penalty at the time of the execution of this Consent Order, and that Franklin shall pay to the Bureau Two Thousand Five

Hundred Dollars (\$2,500.00) of the above referenced civil monetary penalty quarterly after the execution of this Consent Order until paid in full; and it is further

ORDERED, that Hayden is hereby assessed a civil monetary penalty in the amount of Sixteen Thousand Five Hundred Dollars (\$16,500.00), that Hayden shall pay to the Bureau Four Thousand Dollars (\$4,000.00) of the above referenced civil monetary penalty at the time of the execution of this Consent Order, and that Hayden shall pay to the Bureau Two Thousand Five Hundred Dollars (\$2,500.00) of the above referenced civil monetary penalty quarterly after the execution of this Consent Order until paid in full; and it is further

ORDERED, that Kelly is hereby assessed a civil monetary penalty in the amount of Twelve Thousand Seven Hundred Fifty Dollars (\$12,750.00), that Kelly shall pay to the Bureau Two Thousand Seven Hundred Fifty Dollars (\$2,750.00) of the above referenced civil monetary penalty at the time of the execution of this Consent Order, and that Kelly shall pay to the Bureau Two Thousand Five Hundred Dollars (\$2,500.00) of the above referenced civil monetary penalty quarterly after the execution of this Consent Order until paid in full.

NEW JERSEY BUREAU OF SECURITIES

By:  Acting Chief
bar

Franklin L. Widmann, Chief

Kenneth D. Franklin, Matthew A. Hayden and Michael J. Kelly hereby consent to the form, content and entry of this Consent Order:

DATED:

Kenneth D. Franklin

DATED:

6/6/06

Matthew A. Hayden

DATED:

Michael J. Kelly

Franklin L. Widmann, Chief

Kenneth D. Franklin, Matthew A. Hayden and Michael J. Kelly hereby consent to the form, content and entry of this Consent Order:

DATED: 6/1/86


Kenneth D. Franklin

DATED:

Matthew A. Hayden

DATED:



Michael J. Kelly